

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GERALD ULIBARRI and
WHITE RIVER ROYALTIES, LLC.,

Plaintiffs,

vs.

1:16-cv-00215-KWR-JHR

SOUTHLAND ROYALTY COMPANY, LLC,

Defendant.

ORDER OF DISMISSAL

THIS MATTER comes before the Court following an order to show cause why this case should not be dismissed. **Doc. 198.** This case was stayed pending a bankruptcy court action. As explained below, it appeared that Plaintiffs' proof of claim in the bankruptcy action had been settled and withdrawn. It also appeared that Plaintiffs' adversary proceeding in the bankruptcy action had settled and a stipulation of dismissal was filed. The Court *sua sponte* issued an order to show cause why this case should not be dismissed. **Doc. 198.** The Court warned the parties that the Court may dismiss this action without further notice if they did not respond to the order to show cause. Neither party responded.

On February 3, 2020, Defendant filed a suggestion of bankruptcy, indicating that the case was automatically stayed pursuant to 11 U.S.C. § 362, because it filed a voluntary petition under Chapter 11. **Doc. 192; *In re Southland Royalty Company, LLC***, Case No. 20-bk-10158 KBO (D. Del).

The Honorable Robert C. Brack subsequently denied Plaintiffs' motion for class certification without prejudice and stayed the case. **Doc. 193.**

It appears that the Defendant's Chapter 11 bankruptcy plan was confirmed, the Defendant reorganized, and Plaintiff Ulibarri subsequently withdrew his proof of claim pursuant to a settlement agreement. *See In re Southland Royalty Company, LLC*, Case No. 20-bk-10158 KBO (D. Del), Doc. 1907, filed August 2, 2021 (withdrawal of Plaintiffs' proof of claim in bankruptcy action). Plaintiff entered into a settlement agreement with the Plan administrator. *Id.* Plaintiff Ulibarri filed a putative class action adversary proceeding in the bankruptcy case, which also settled. *Gerald Ulibarri, individually and on behalf of the putative class v. Southland Royalty Company, LLC*, 21-ap-50056 (D. Del). The parties filed a stipulation of voluntary dismissal with prejudice. *Id.*, Doc. 44, 21-ap-50056 (D. Del). Therefore, it appears that the claims in this case have been settled and dismissed. In the order to show cause the Court directed the parties to do as follows:

Plaintiffs shall show cause whether any claims remain in this case following the reorganization and settlement. If all claims are resolved, Plaintiffs should show cause why this case should not be dismissed. If either party asserts a claim remains, the party or parties should file a brief explaining the interplay between bankruptcy law, confirmation and settlement, and the claims in this case.

If Plaintiffs decline to file a response within **fourteen (14) days** of the entry of this order, the Court will dismiss this case without prejudice and without further notice.

Doc. 198 at 2. Neither party filed a response to the order to show cause, nor did they argue that the Court's factual recitation of the bankruptcy proceedings in the order to show cause was inaccurate. Therefore, the Court assumes that all disputes between the parties have settled and the parties consent to dismissal of this action. Alternatively, the Court finds that dismissal of this action for failure to respond to court orders is appropriate.

Therefore, the Court will **DISMISS** this case **WITHOUT PREJUDICE** and file a separate judgment.

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE